



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT ADE Contract No. ED05-0001

_____; hereinafter referred to as the
"SPONSOR" (Legal Name of Applicant).

Doing Business As (DBA) if applicable

FOR ALL PROGRAMS EXCEPT THE SUMMER FOOD SERVICE PROGRAM

In order to effectuate the purpose of the National School Lunch Act (NSLA), as amended (42 U.S.C. 1751) and the Child Nutrition Act (CNA) of 1966, as amended (42 U.S.C. 1771 et seq.), the Arizona State Board of Education, (BOARD), acting through the Arizona Department of Education (AGENCY) and the SPONSOR, whose name appears above, enter into this Agreement pursuant to Arizona Revised Statutes (A.R.S.) §15-203.B, §15-342, §15-1152, and §11-951, et seq. (if the sponsor is a public agency); A.R.S. §15-101 (1) and (14) (accommodation schools); A.R.S. §41-2804 (state juvenile institution); A.R.S. §41-1604 (state adult correctional institution); A.R.S. §8-226 (county correctional institution); 25 USC 452 and 25 CFR 21/22 (Bureau of Indian Affairs (BIA) school) and 25 USC 450 and 25 CFR 271.1 (P.L. 93-638) (BIA contract school).

FOR THE SUMMER FOOD SERVICE PROGRAM ONLY

In order to effectuate the purpose of the National School Lunch Act (NSLA), as amended, (42 U.S.C. 1758, 1761 and 1762B) and the Child Nutrition Act (CNA) of 1966, as amended (42 U.S.C. et seq.), the Arizona State Board of Education (BOARD), acting through the Arizona Department of Education (AGENCY), and the SPONSOR, whose name appears above, enter into this Agreement pursuant to Arizona Revised Statutes Sections (A.R.S.) §15-203.B, §15-342, §15-1152, and §11-951, et seq. (if the SPONSOR is a public agency). Additionally, Bureau of Indian Affairs (BIA) schools enter into this Agreement under citations 25 USC 452 and 25 CFR 21, and BIA contract schools under citations 25 USC 450 and 25 CFR 271.1 (P.L. 93-638).

If the SPONSOR is a public agency other than noted above, authorization to enter into this Agreement is also by virtue of _____.
(to be completed by sponsor)

The SPONSOR enters into this Agreement with the Board for participation in one or more of the following programs (Check those that apply):

1. ☐ National School Lunch Program (CFDA No. 10.555)
2. ☐ School Breakfast Program (CFDA No. 10.553)
3. ☐ Special Milk Program (CFDA No. 10.556)
4. ☐ Summer Food Service Program (CFDA No. 10.559)
5. ☐ Food Distribution Program (CFDA No. 10.550) for National School Lunch Program
6. ☐ Food Distribution Program (CFDA No. 10.550) for Summer Food Service Program



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

A. PROGRAM REIMBURSEMENT

The BOARD agrees, to the extent of funds available, to reimburse the SPONSOR for the above designated programs operated by it in accordance with the following regulations, and any amendments, which are applicable to such programs: National School Lunch Program Regulations (7 CFR parts 210, 245), Special Milk Program Regulations (7 CFR part 215), School Breakfast Program Regulations (7 CFR part 220), Summer Food Service Program Regulations (7 CFR part 225). Reimbursement payments to be made by the BOARD shall be subject to the provisions of A.R.S. Title 35 relating to time and manner of submission of claims if not in conflict with federal law. The BOARD also agrees to donate foods in accordance with Donation of Foods for use in the United States, its Territories and Possessions and Areas under its Jurisdiction (7 CFR part 250), and any amendments thereto.

B. PROVISIONS FOR ACCEPTING FUNDS

The SPONSOR agrees to accept federal funds and/or donated foods in accordance with applicable regulations as set forth in 7 CFR parts 210-250 and any amendments thereto, Office of Management and Budget Circular A-133 and A-122, as applicable, and to comply with all provisions of said rules and OMB circulars, ADE Child Nutrition Program Office Requirements, and with any instructions or procedures issued in connection therewith. The SPONSOR further agrees to administer programs funded under this Agreement in accordance with provisions of the Uniform Federal Assistance Regulations (7 CFR part 3015, 3016, 3019).

C. PROGRAM REQUIREMENTS OF THE SPONSOR

The SPONSOR agrees that, for each site listed on the site sheet of the application, it will conduct the above designated program(s) in accordance with the U.S. Department of Agriculture (DEPARTMENT) regulations and will conform to the following requirements in the conduct of each program (unless the requirement is restricted to a particular program):

1. FOR NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM ONLY

- a. Maintain a nonprofit food service or maintain a nonprofit milk service. Observe the limitations on the use of nonprofit school food service revenues set forth in 7 CFR part 210.14(a).
- b. Prohibit the sale of foods of minimal nutritional value, as listed in Appendix B of 7 CFR part 210, during meal service periods in areas where reimbursable meals are served and/or eaten, in accordance with 7 CFR 210.11. Additionally, SPONSORS shall establish such rules or regulations as are necessary to control the sale of foods in competition with meals served under the Program. The sale of other competitive foods, other than those listed in Appendix B of 7 CFR part 210, may, at the discretion of the AGENCY and the SPONSOR, be allowed in the food service area during the lunch period only if all income from the sale of such foods accrues to the benefit of the nonprofit school food service or the school or student organizations approved by the school.
- c. Promote activities to involve students and parents in the National School Lunch and School Breakfast Programs.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

- d. Plan menus based on one of the following four options: 1) Traditional Meal Pattern; 2) Food-Based Menu Planning; 3) Nutrient Standard Menu Planning; and 4) Assisted Nutrient Standard Menu Planning in order to meet the Dietary Guidelines for Americans and key nutrient levels as set forth in 7 CFR parts 210.10 and 220.8.
- e. Maintain production and menu records for meals produced. These records must show how the meals contribute to the required food components, food items or menu items every day, as set forth in 7 CFR parts 210.10. Production records shall include sufficient information to evaluate the menu's contribution to the nutrition standards and the appropriate calorie and nutrient levels for the age/grades of the children in the school, as identified in 7 CFR 210.10 and 220.8.
- f. Maintain and comply with a financial management system as prescribed by the ADE Child Nutrition office and 7 CFR part 210.14(c) and part 3015.
- g. Limit the net cash resources for its nonprofit school food service to an amount that does not exceed three months average expenditures or such other amount as may be approved by the AGENCY in accordance with 7 CFR part 210.14(b).
- h. Serve lunches and/or breakfasts and/or after school care snacks during the designated periods, for the number of days specified on the program application. Serve lunches and/or breakfasts and/or after school care snacks during the designated periods, in accordance with 7 CFR 210.10, for the number of days specified on the program application.
- i. Price the meal as a unit. Claim no more than one (1) lunch/breakfast/after school care snack per child per day per meal service.
- j. Make lunches/breakfasts/after school care snacks available without cost or at a maximum reduced price of 40 cents for lunch, 15 cents for snacks, and 30 cents for breakfast to all children who are determined by the SPONSOR to be eligible for such meals under 7 CFR part 245 and as described in the Child Nutrition Programs Guidance Manual.
- k. Claim reimbursement at the assigned rates only for milk or reimbursable free, reduced-price, and paid lunches and/or after school care snacks and/or breakfasts served to eligible children in accordance with 7 CFR parts 210 and 220.
- l. Conduct verification in accordance with 7 CFR 245.11. Report verification results to the AGENCY no later than March 1st. Collect and report the number of students who were terminated as a result of verification, but who were reinstated as of February 15th. Maintain copies of the verification report and all supporting documentation for a for a period of three (3) years, in accordance



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

with 7 CFR 210.23(c), or for the period of time required by the Arizona Department of Library, Archives and Public Records, Records Management Manual A.R.S. §35-214, whichever is longer. Necessary records shall be retained for the designated period of time after the end of the school/fiscal year to which they pertain, and then until resolution of an unsolved audit which exceeds the designated time period, as required by 7 CFR 210.23 (c) and A.R.S. §35-214.

- m.** The SPONSOR's designated official signing the claim or his/her assigned representative shall be responsible for reviewing and analyzing meal counts to ensure accuracy as specified in 7 CFR part 210.8 governing claims for reimbursement. At a minimum the responsibilities should include:
1. No less than one on-site review of the meal counting and claiming system for the meal service for each school under its jurisdiction for a SPONSOR with more than one site. The on-site review shall take place prior to February 1 of each school year. If the review discloses problems with a school's meal counting or claiming procedures, the SPONSOR shall be required to develop and implement a corrective action plan and a follow-up on-site review must be conducted within 45 calendar days of the review to determine that the corrective action resolved the problems.
 2. No less than two on-site reviews of the meal counting and claiming system for the after school care snack program, if implemented. The first review shall be made during the first four weeks of the school year that the school is in operation. Year round schools or Residential Child Care Institutions shall review the snack program during the first four weeks of its initial year of operation, once more during its first year of operation, and twice each school year thereafter. If the review discloses problems with a school's meal counting or claiming procedures, the SPONSOR shall be required to develop and implement a corrective action plan and a follow-up on-site review must be conducted within 45 calendar days of the review to determine that the corrective action resolved the problems.
 3. Perform edit checks that compare each school's daily counts of free, reduced-price, and paid lunch/breakfast against the product of the number of children in that school currently eligible for free, reduced-price, and paid meals, respectively, times an attendance factor. This attendance factor may be developed by the SPONSOR, subject to AGENCY approval, or developed by the AGENCY.
 4. Submit claims for reimbursement in accordance with procedures established by the AGENCY. Claims for reimbursement not filed within 60 days following the last day of the claiming month will be disallowed. Any exception to this requirement will be made at the discretion of the AGENCY and/or Food and Nutrition Service (FNS), USDA, Western Regional Office.
 5. SPONSOR shall maintain on file, each month's claim for reimbursement and all data used in the claims review process, by school, for a period of three (3) years, in accordance with 7 CFR 210.23(c), or for the period of time required by the Arizona Department of Library, Archives and Public Records, Records Management Manual A.R.S. §35-214, whichever is



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

longer. Necessary records shall be retained for the designated period of time after the end of the school/fiscal year to which they pertain, and then until resolution of an unsolved audit which exceeds the designated time period, as required by 7 CFR 210.23 (c) and A.R.S. §35-214. All Food Service Management Company contracts, and records which support such contracts, shall be maintained for three (3) years, in accordance with 7 CFR 210.23(c), or for the period of time required by the Arizona Department of Library, Archives and Public Records, Records Management Manual A.R.S. §35-214, whichever is longer, as required by 7 CFR 210.23 (c) and A.R.S. §35-214. The records which are to be kept for each program include:

- (I) Daily number of meals served to children, by category and type of meal, or daily number of half-pints milk served to paying children or served free to children under the Special Milk Program.
 - (II) Revenue from children's payments, federal reimbursement, food sales to adults, loans to the program, all a la carte sales, and any other sources to demonstrate that the food service is being operated on a nonprofit basis. The revenue report shall show net cash resources or the information necessary for the AGENCY to compute net cash resources through a review or audit and annual financial report.
 - (III) Food Service expenditures (supported by invoices, receipts, or other evidence of expenditures).
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- n. Failure to submit accurate claims will result in the recovery of an over claim and may result in the withholding of payments, suspension, or termination of the program as specified in 7 CFR part 210.24 and 210.25.
 - o. The penalties specified in 7 CFR part 210.26 shall apply to any SPONSOR who is found to engage in embezzlement, willful misapplication of funds, theft, or fraudulent activity in regards to claims submitted.
 - p. Count the number of free, reduced-price, and paid reimbursable meals served to eligible children at the point of service. School sites approved for Special Assistance, Provision 2 are exempt, except they shall do a total count of all children at the point of service. School sites approved for Special Assistance, Provision 3 are exempt from any point of service meal counts.
 - q. Upon request, make all accounts and records pertaining to its school food service available to the AGENCY and to Food and Nutrition Service (FNS), for audit or review, at a reasonable time and place.
 - r. Maintain in the storage, preparation, and service of food, proper sanitation and health standards in conformance with all applicable state and local laws, regulations and ordinances.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

- s. Maintain necessary facilities for storing, preparing and serving food and milk.
- t. Procurement practices shall be in accordance with the Arizona Procurement Code and Regulations, (Charter schools are exempt as set forth in Arizona Statute Title 15-189.02). OMB Circulars A-133 and 7 CFR Parts 3015, 3016, 3016 and 7 CFR Part 226.22. All claims and controversies shall be subject to the Arizona Procurement Code, A.R.S. §41-2501 et seq., and Arizona Administrative Code R2-7-101 et seq. Procurement standards must be submitted to the AGENCY and will be considered a permanent document, unless changes are made by either party. Failure to follow established procedures in the procurement of food management company services may result in non-renewal of sponsor application to participate in the programs, or in withholding of reimbursement funds.
- u. Section 104(d) of HR 3874 requires schools in the contiguous States that participate in the National School Lunch and School Breakfast Program to purchase, to the maximum extent practicable, only food products that are produced in the United States or products that are processed in the United States substantially using agricultural commodities that are produced in the United States for those programs.
- v. Any contracting for the furnishing of meals or management of the entire food service under the Program must be conducted in accordance with proper procurement procedures and must be done on a competitive basis in accordance with 7 CFR 225.16. A food service management company entering into a contract with a SPONSOR shall not subcontract for the total meal with or without milk, or for the assembly of the meal. SPONSORS contracting with a food service management company shall comply with 7 CFR 225.16. A SPONSOR entering into a contract with a food service management company shall not contract: ADE Food Program Service Agreement, CNP Web applications, CNP Web claim submissions, approving and processing NSLP income applications, access and distribution of benefit status, Benefit Issuance Document, access and use of Direct Certification system, verification procedures, civil rights compliance reporting, and procurement of food service management companies, in accordance with 7 CFR 225.16
- w. Submit proposed Invitation for Bid (IFB)/Request for Proposal (RFP) to the AGENCY for review and approval. Written approval of the IFB/RFP must be received from the AGENCY prior to advertising for bids/proposals. Submit copies of all contracts with food service management companies, along with a certification of independent price determination to the AGENCY prior to the beginning of program operations. Written approval must be received from the AGENCY prior to both parties entering into contract.
- x. Individuals with access to CNP Web shall abide by the Arizona Department of Education (ADE) Acceptable Use Policy, which covers the use of electronic communication networks and computer-based administrative applications of the ADE. This policy applies to all personnel using these intranet, extranet, internet, and administrative resources, including, but not limited to, officials and employees of schools, school districts, charter schools, and ADE. CNP Web accounts and passwords shall not be provided to consultants, consulting firms, or food service management compa-



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

nies contracting with your organization. Individuals who fail to comply will be subject to further action.

2. FOR SUMMER FOOD SERVICE PROGRAM ONLY

- a. Operate a nonprofit food service during any period from May through September for children on school vacation; or, at any time of the year, in the case of SPONSORS administering the Program under a continuous school calendar system or during school closures due to natural disasters, building repairs, court orders or similar causes.
- b. Serve meals which meet the requirements and provisions set forth in 7 CFR Part 225.16 during the times designated as the meal service period by the SPONSOR, and serve the same meals to all children.
- c. Serve meals without cost to all children, except that residential summer camps may charge for meals served to children who are not served meals under the Program.
- d. Certify that a free meal price policy has been released to the media serving the area from which sites draw attendance.
- e. Hold training sessions for administrative and site personnel with regard to Program duties and allow no site to operate until personnel have attended at least one of these training sessions. The SPONSOR shall also ensure that administrative personnel attend required AGENCY training and shall continue to provide training throughout the summer to ensure that administrative personnel are thoroughly knowledgeable in all required areas of Program administration and operation and are provided with sufficient information to enable them to carry out their Program responsibilities. Each site shall have present at each meal service at least one person who has received this training.
- f. Claim reimbursement for the type or types of meals specified in the application and served without charge to children at approved sites during the approved meal service period except that camps shall claim reimbursement only for the type or types of meals specified in the application and served without charge to children who meet the Program's income standards. The SPONSOR shall operate within approved levels of meal service, if required under 7 CFR Part 225.6. No permanent changes may be made in the serving time of any meal unless the changes are requested in writing by the SPONSOR and approved by the AGENCY.
- g. Submit claims for reimbursement in accordance with procedures established by the AGENCY. Claims for reimbursement not filed within sixty (60) calendar days following the claiming month will be disallowed. Any exception to this requirement will be made at the discretion of the STATE AGENCY and/or Food and Nutrition Services (FNS), USDA, Western Regional Office.
- h. In the storage, preparation, and service of food, maintain proper sanitation and health standards in conformance with all applicable State and local laws and regulations.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

- i. Have access to facilities necessary for storing, preparing, and serving food.
- j. Maintain a financial management system as prescribed by the AGENCY.
- k. Maintain, on file, documentation of site visits and reviews in accordance with 7 CFR Part 225.15(d) and maintain accurate records which justify all costs and meals claimed.
- l. Upon request, make all books, accounts, reports, files, and other records pertaining to the Program available to State, federal, or other authorized officials for audit or administrative review, at the AGENCY or other place at a reasonable time. The SPONSOR shall maintain on file all records used for a period of three (3) years, in accordance with 7 CFR 210.23(c), or for the period of time required by the Arizona Department of Library, Archives and Public Records, Records Management Manual A.R.S. §35-214, whichever is longer. Necessary records shall be retained for the designated period of time after the end of the school/fiscal year to which they pertain, and then until resolution of an unsolved audit which exceeds the required time period, as required by 7 CFR 210.23 (c) and A.R.S. §35-214. All Food Service Management Company contracts, and records which support such contracts, shall be maintained for three (3) years, in accordance with 7 CFR 210.23(c), or for the period of time required by the Arizona Department of Library, Archives and Public Records, Records Management Manual A.R.S. §35-214, whichever is longer, as required by 7 CFR 210.23 (c) and A.R.S. §35-214. Such records shall be produced at the office(s) designated by the applicable person conducting such inspection, review, or audit.
- m. Maintain children on site while meals are consumed.
- n. Retain final financial and administrative responsibility for its Program.
- o. Certify that SPONSORS which are units of local, municipal, county or State government, and SPONSORS which are private nonprofit organizations, shall be approved to administer the Program only at sites over which they have direct operational control.
- p. Certify that the information submitted in the Program application, site information sheets, Program agreements, or a request for advance payments and claims for reimbursement are true and correct and that the SPONSOR is aware that deliberate misrepresentation or withholding of information may result in prosecution under applicable State and federal statutes.
- q. Prior to commencement of operation under the Program, submit to the AGENCY, a copy of their letter advising the appropriate health department of their intention to provide a food service during a specific period at specific sites.
- r. Serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary of Agriculture.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

- s. Any contracting for the furnishing of meals or management of the entire food service under the Program must be conducted in accordance with proper procurement procedures and must be done on a competitive basis in accordance with 7 CFR 225.16. A food service management company entering into a contract with a SPONSOR shall not subcontract for the total meal with or without milk, or for the assembly of the meal. SPONSORS contracting with a food service management company shall comply with 7 CFR 225.6(h). A SPONSOR entering into a contract with a food service management company shall not contract: ADE Food Program Service Agreement, CNP Web applications, CNP Web claim submissions, approving and processing NSLP income applications, access and distribution of benefit status, Benefit Issuance Document, access and use of Direct Certification system, verification procedures, civil rights compliance reporting, and procurement of food service management companies, in accordance with 7 CFR 225.16.
- t. Submit proposed Invitation for Bid (IFB)/Request for Proposal (RFP) to the AGENCY for review and approval. Written approval of the IFB/RFP must be received from the AGENCY prior to advertising for bids/proposals. Submit copies of all contracts with food service management companies, along with a certification of independent price determination to the AGENCY prior to the beginning of program operations. Written approval must be received from the AGENCY prior to both parties entering into contract.
- u. Individuals with access to CNP Web shall abide by the Arizona Department of Education (ADE) Acceptable Use Policy, which covers the use of electronic communication networks and computer-based administrative applications of the ADE. This policy applies to all personnel using these intranet, extranet, internet, and administrative resources, including, but not limited to, officials and employees of schools, school districts, charter schools, and ADE. CNP Web accounts and passwords shall not be provided to consultants, consulting firms, or food service management companies contracting with your organization. Individuals who fail to comply will be subject to further action.
- u. Visits shall be made by the SPONSOR to each of its sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies. Exceptions can be made to this requirement for experienced SPONSORS upon approval from the AGENCY. SPONSORS shall also review food service operations at each site at least once during the first four weeks of Program operations, and thereafter shall maintain a reasonable level of site monitoring. SPONSORS shall complete a monitoring form provided by the AGENCY during the conduction of these reviews.
- v. If the SPONSOR administers National Youth Sports Program (NYSP) sites, certify that the site has complied with the Department of Health and Human Services guidelines for the income eligibility for children attending the program. If NYSP is not the sponsoring organization, site eligibility must be verified by the SPONSOR through a review of NYSP records.
- w. If a private nonprofit organization, certify that they will operate 25 sites regardless of location of the sites with not more than 300 children or, with a waiver granted by the AGENCY, not more than 500 children being served at a meal service at any one site; prepare meals themselves or obtain



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

meals from a public facility or a school participating in the National School Lunch Program; operate in areas where a school or government sponsor has not indicated by March 1 of the current year that they will operate the Program; exercise full control and authority over the operation of the program at all sites under its sponsorship; provide adequate resources to supervise and monitor Program compliance; provide ongoing year-round activities for children or families; possess adequate management and the fiscal capacity to operate the Program; and meet applicable State and local health, safety, and sanitation standards.

D. ASSURANCE OF CIVIL RIGHTS COMPLIANCE

1. The SPONSOR hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) (42 U.S.C. 2000d et seq.) "Title VI"; Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.); Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) (29 U.S.C. 794); the Age Discrimination Act of 1975 (P.L. 94-135) (42 U.S.C. 6101 et seq.), and all requirements imposed by the regulations of the DEPARTMENT (7 CFR parts 15, 15a, 15b); U.S. Department of Justice Enforcement Guidelines; and Food and Nutrition Service (FNS) directives and guidelines that prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the program applicant receives federal financial assistance from the DEPARTMENT; and hereby gives assurance that it will immediately take any measures necessary to effectuate this Agreement.
2. This assurance is given in consideration of and for the purpose of obtaining any and all federal financial assistance and the permission to use, federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the SPONSOR, or in recognition of the public interest to be served by the furnishing of services to the SPONSOR, or any improvements made with federal financial assistance extended to the program SPONSOR by the DEPARTMENT.
3. By accepting this assurance, the SPONSOR agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of federal nondiscrimination laws and permit authorized DEPARTMENT personnel during normal working hours to review such records, books and accounts as needed to ascertain compliance with Title VI. If there are any violations of this assurance, the DEPARTMENT, Food and Nutrition Service (FNS), shall have the right to seek judicial enforcement of this assurance.
4. The SPONSOR also agrees to comply with the Governor's Executive Order 99-4, the provisions of which are incorporated herein.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

5. These assurances are binding on SPONSOR, its successors, transferees, and assignees as long as such person or entity receives assistance or retains possession of any assistance from the DEPARTMENT.
6. Maintain information on civil rights complaints, if any, and their resolutions.

E. RIGHT OF JUDICIAL ENFORCEMENT

The SPONSOR recognizes and agrees that such federal financial assistance will be extended in reliance on the representations stated herein and in the Exhibits hereto and that the United States and the State of Arizona, individually or jointly, shall have the right to seek judicial enforcement of the Agreement. This Agreement is made in the State of Arizona and shall be interpreted by the laws of the State of Arizona; any litigation arising out of this Agreement shall be brought in Arizona.

F. THE STATE AGENCY AND THE SPONSOR MUTUALLY AGREE THAT:

1. With the approval of the AGENCY, sites may be added or deleted from the site sheet as the need arises, and the references herein to the site sheet shall be deemed to include the most recently approved site sheet.
2. The AGENCY shall promptly notify the SPONSOR of any change in the minimum meal requirements or the assigned rates of reimbursement.
3. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom; but this provision shall not be construed to extend this Agreement if made with a corporation for its general benefit.
4. This Agreement, and the duties arising hereunder, shall become effective on July 1, 2004 or upon signature by the Superintendent of Public Instruction, or his designee, whichever occurs last. This agreement shall automatically renew on July 1 of each year, beginning July 1, 2005, unless either party notifies the other 30 days prior to the renewal date of their intent not to renew. This agreement shall not exceed four, 1-year renewals and shall terminate or be amended on June 30, 2009. Before any amendment or extension may become effective, appropriate action must be taken by ordinance, resolution, or otherwise pursuant to the laws applicable to public agencies entering into this Agreement.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

5. For this Agreement period, reimbursement shall not be made for any meals served before the effective date of this Agreement.
6. No right or interest in this Agreement shall be assigned or delegated without the written permission of the other party.
7. This Agreement may be canceled upon thirty (30) days notice in writing by either party. Notwithstanding the foregoing, the AGENCY may cancel this Agreement immediately upon receipt of evidence that the terms hereof have not been complied with by the SPONSOR.
8. In the event that funding ceases or becomes unavailable to provide for payments under this agreement, the AGENCY shall immediately notify the SPONSOR and the SPONSOR shall cease to perform under this Agreement and the AGENCY shall have no further obligations under this Agreement.
9. The SPONSOR shall repay to the federal government or the AGENCY all monies determined by any financial-compliance audit or review to be owed to the federal government or the AGENCY in connection with any program for which the SPONSOR has received funds. If the SPONSOR fails to make such repayment within thirty days after demand by the AGENCY, SPONSOR shall also pay all reasonable attorneys' fees based on reasonable hourly charges of like experienced attorneys in Phoenix, Arizona for the Assistant Attorney General representing the AGENCY or the attorney representing the DEPARTMENT in seeking to enforce this paragraph.
10. In the event of a dispute, the parties agree to use arbitration insofar as required by A.R.S. §12-1518, if not in conflict with federal law.
11. This Agreement may be modified only in writing signed by all of the parties or their duly authorized agents. Notice required pursuant to this Agreement shall be served personally or by mail upon each party at the addresses specified on the following page.
12. The covenants and agreements herein contained shall inure to the benefit of and be binding upon the parties hereto and their respective successors, transferees and assignees.

G. FREE AND REDUCED-PRICE POLICY STATEMENT

The SPONSOR must supply copies of its Program Application, Free and Reduced-Price Policy Statement, and the Free and Reduced-Price Document Summary to the AGENCY. The Free and Reduced-Price Policy Statement will be considered a permanent document. SPONSORS of Summer Food Service Program with enrolled sites and camps certify that eligibility data is available for all children claimed for free and reduced-price benefits and that the prescribed eligibility criteria is met.

H. TERMINATION



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

This Agreement is subject to cancellation pursuant to A.R.S. §38-511, the provisions of which are incorporated herein.

I. AGREEMENT INTERPRETATION AND AMENDMENT

1. No Parole Evidence. This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any term used in this document.
2. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
3. Written Agreement Amendments. The Agreement shall be modified only through a written Agreement amendment within the scope of the Agreement signed by the AGENCY.

J. THIRD PARTY ANTITRUST VIOLATIONS

The SPONSOR assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the SPONSOR toward fulfillment of this Agreement.

K. ARIZONA LAW

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

L. AVAILABILITY OF FUNDS FOR THE NEXT STATE FISCAL YEAR

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

M. RECORDS

Under A.R.S. §35-214 and §35-215, the Contractor shall retain and shall contractually require



ARIZONA DEPARTMENT OF EDUCATION

**Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007**

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

each subcontractor to retain all data and other “records” relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

FOOD DISTRIBUTION PROGRAM AGREEMENT

(Applicable to Sponsors receiving commodities/donated foods)

Policies/Procedures

1. The AGENCY solicits vendors (Warehouse/Distributor) to distribute United States Department of Agriculture donated food to eligible SPONSORS. SPONSORS shall receive donated food as required by 7 CFR part 250. The cost of shipping will be paid by the SPONSOR. The SPONSOR is responsible for establishing a purchase order with the delivering vendor. The AGENCY will announce annually the delivery charge (service, handling and administrative fees) and delivery vendor prior to the beginning of the fiscal year. PAYMENTS are due to the delivering vendor within 30 days of delivery. Shipments will be withheld if the SPONSOR becomes 60 days in arrears with payment. Failure to pay will result in termination of participation and non-renewal of Food Distribution Program.
2. The SPONSOR agrees to pay excess storage and administrative fees for donated foods that are not ordered and have not been refused within the designated dwell times.
3. The SPONSOR agrees to accept and order donated foods only in quantities that can be used in a six-month period in a non-profit School Food service. Any SPONSOR ordering donated foods in excess quantities may be held financially responsible for spoilage or contamination which results in the foods being unfit for human consumption. SPONSOR is to notify the AGENCY when any loss of, or damage to, donated foods occurs.
4. The SPONSOR shall receive and use donated foods only for the benefit of those persons eligible for congregate meals provided by the SPONSOR. Foods will not be transferred or used otherwise without prior written approval of the AGENCY. Donated foods shall not be sold or traded, but may be transferred with the approval of the AGENCY when determined to be in the best interest of the program.
5. The SPONSOR shall maintain evidence that necessary protective measures are maintained when storing donated food. Evidence to support would include, but are not limited to, storage temperature charts verifying proper storage temperatures, pest control schedule and security system used. Documentation must be available to identify storage facilities obtained all necessary federal, state and/or local health inspections or if no such inspections are made, a self-evaluation form for storage facilities be completed annually.
6. The SPONSOR shall maintain all records pertaining to transactions relating to receipt, disposal and inventory of donated foods. All records required in this agreement shall be retained for a period of five years from the close of the federal fiscal year to which they pertain.
7. The SPONSOR shall complete, return and maintain a copy of inventory forms provided by the AGENCY. Failure to comply may result in termination of participation in the Food Distribution Program. The SPONSOR shall comply with instructions from the AGENCY to: a) distribute remaining inventory of donated foods, or b) return inventories with applicable reports to the AGENCY if a program is terminated.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

8. Funds received by the SPONSOR from sales of salvable containers or salvage of donated foods shall be deposited in SPONSOR'S Food Service Account.
9. SPONSORS may elect to participate in the Food Distribution processing programs. Cost of the processing and distribution of the end product will be incurred by the SPONSOR. Participants shall:
 - a. Follow federal and state procurement rules and regulations in purchasing end products not bid by the AGENCY.
 - b. Release donated foods only to the AGENCY approved processor.
 - c. Maintain records to support purchase of processed commodity end products.
 - d. Be held responsible to fulfill commitments to the AGENCY and processor.
10. The SPONSOR shall permit inspection by the AGENCY or DEPARTMENT personnel of the storage facilities and any other areas used in handling donated foods. The SPONSOR shall also allow inspection of all records including financial records pertaining to the Food Distribution Program.
11. Food Service Management Companies (FSMC) may use donated foods in the preparation of meals for eligible SPONSORS pursuant to a written contract, which meets the requirements of 7 CFR 250.12(c). If a FSMC is used, the SPONSOR will submit a copy of the contract to the AGENCY annually. Contracts will ensure that:
 - a. Any donated food will be used only to benefit the SPONSOR'S feeding operation.
 - b. Proper inventory controls will be maintained.
 - c. All books and records of the FSMC pertaining to the feeding operation of the SPONSOR will be available for a period of three (3) years, in accordance with 7 CFR 210.23(c), or for the period of time required by the Arizona Department of Library, Archives and Public Records, Records Management Manual A.R.S. §35-214, whichever is longer, from the close of the fiscal year to which they pertain for inspection and audit.
 - d. The responsibility will be clearly defined for who (the SPONSOR or the FSMC) will be accountable for the payments to be made to the distributor and commodity processors within 60 days of billing.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

SPECIAL MILK PROGRAM AGREEMENT

(Applicable to those Sponsors participating in Special Milk Program)

THE SPONSOR AGREES TO:

1. Operate a nonprofit milk service.
2. Submit claims for reimbursement and maintain a financial management system in accordance with procedures established by the DEPARTMENT and the AGENCY.
3. Make no physical segregation or other discrimination against or overt identification of any child because of his/her inability to pay the full price of the milk.
4. Make free milk available (if applicable) to all eligible children whenever it is provided under the Special Milk Program.
5. Make maximum use of the reimbursement payments to reduce the price of the milk served to paying children and maintain a nonprofit status. (Not applicable to non-pricing programs).
6. Claim reimbursement only for fluid types of milk as defined in 7 CFR 215.2 served to children at the assigned rate for the classification of paid (or free, if applicable) in accordance with 7 CFR 215.8 and 215.10.
7. Maintain full and accurate records of the program operation including the number of half-pints of milk served to children, the number of half-pints of milk served to adults and the number of half-pints of milk served free to eligible children if free milk is provided.
8. Furnish a written statement of the policy followed in making determinations as to eligibility of children receiving free milk. Such policy shall be consistent with the rules issued by the DEPARTMENT on this subject (7 CFR 245). (Required **only** for pricing programs providing free milk to children).



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

CLEAN AIR/CLEAN WATER ACT COMPLIANCE

(Applicable to Sponsors receiving \$100,000 or more in federal funds)

1. The SPONSOR agrees that any facility to be utilized in the performance of this agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities as of the date of submitting this agreement.
2. The SPONSOR further agrees that it shall not use any facility on the List of Violating Facilities in the performance of the agreement for the duration of the time that any such facility remains on the List.
3. The SPONSOR further agrees to notify the STATE AGENCY if it intends to use in the performance of this agreement any facilities on the List of Violating Facilities or learns or knows that the facility being used has been recommended to be placed on the List of Violating Facilities.
4. The SPONSOR additionally agrees that it shall, in the performance of the agreement, comply with all requirements of the Clean Air Act (42 U.S.C., 1857 et seq.) and the Clean Water Act (33 U.S.C., 1251 et seq.) including the requirements of section 114 of the Clean Air Act and Section 308 of the Clean Water Act and all applicable Clean Air standards and Clean Water standards.
5. The SPONSOR further agrees that it shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C., 1857 (H)), Section 508 of the Clean Water Act (33 U.S.C., 1368), Executive Order 11738 and EPA regulations found in 40 CFR part 15 (which prohibit the use of facilities on the EPA List of Violating Facilities). In addition to notifying the AGENCY of facilities to be used which are on the Violating List, SPONSOR also agrees to notify the United States EPA Assistant Administrator for Enforcement.



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

CERTIFICATION PAGE

(Applicable to Sponsors with governing boards only;
must be completed and signed before signature page.)

DIRECTIONS:

- (1) County in which the governing board is located.
 - (2) Name of governing board member authorized to sign this certification page.
 - (3) City in which governing board meeting regarding the Food Service Agreement was held.
 - (4) Date of governing board meeting.
 - (5) Legal title of the SPONSOR's governing board; current year.
 - (6) Name of designated official who will be signing the Food Service Agreement (same designated official as on line 1, page 17, of the Food Service Agreement).
 - (7) Signature of governing board member (same name as on line (2) of this certification page).
- Please note that a governing board member *cannot* designate himself or herself as the *Designated Official*.

CERTIFICATION

State of Arizona)

County of (1) _____)

I, (2) _____, the duly appointed or elected and qualified

Name of Governing Board Member

member of, and acting on behalf of the governing board, so hereby certify that during a regular meeting held in (3) _____ Arizona, on (4) _____, this governing board, by motion made, seconded and carried, approved and authorized execution of an agreement between the (5) _____ and the State Board of Education for the purpose of participating in the National School Lunch Program, School Breakfast Program, Special Milk Program, Food Distribution Programs, and/or the Summer Food Service Program for the period ending June 30, 2009.

- (6) _____ has been designated by the governing board to sign this Agreement.

Name of Designated Official

(Cannot be the same as (2) above)

I further certify that this meeting was duly noticed, called and convened and was attended by a majority of the members of the governing board and that approval has not since been altered or rescinded.

(7) _____

Signature of Governing Board Member

(Same as (2) above)



ARIZONA DEPARTMENT OF EDUCATION

Child Nutrition Programs
1535 West Jefferson Street
Phoenix, Arizona 85007

2005 - 2009

FOOD PROGRAM SERVICE AGREEMENT

FOOD SERVICE AGREEMENT

SIGNATURE PAGE

AGREED TO AND SIGNED:

1. _____
(Print or Type Name and Title) _____
(Signature of Designated Official if applicable)
[Same as item (6) on Certification Page]

_____ (Sponsor/School) _____ (Date)

Address _____

OTHER AUTHORIZED SIGNATURES

2. _____
(Print or Type Name and Title) _____
(Signature)

3. _____
(Print or Type Name and Title) _____
(Signature)

4. _____
(Print or Type Name and Title) _____
(Signature)

FOR OFFICIAL USE ONLY

STATE BOARD OF EDUCATION

(Superintendent of Public Instruction or Designee) (Date)